

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF FLORIDA
Tampa Division**

UNITED STATES OF AMERICA

v.

Case No. 8:03-CR-77-T-30TBM

SAMI AMIN AL-ARIAN, *et al.*,

Defendants.

**DEFENDANT AL-ARIAN'S MOTION FOR LEAVE
TO FILE A MOTION SEEKING DISCOVERY OF THE GOVERNMENT'S
SUBMISSION IN SUPPORT OF ITS APPLICATION TO TOLL
THE STATUTE OF LIMITATIONS**

COMES NOW the Accused, Dr. Sami Amin Al-Arian, by counsel, and moves this Honorable Court for leave to file a motion for discovery with respect to the government's application to the District Court to toll the statute of limitations pursuant to 18 U.S.C. § 3292. As grounds for the foregoing, the Accused avers the following to wit:

1. In March 2000, the government filed *ex parte* and *in camera* with the District Court a request to toll the statute of limitations in this matter pursuant to 18 U.S.C. § 3292. (See Docs. 347 and 492).
2. On March 21, 2000, District Court Judge Susan C. Bucklew granted the government's request to toll the statute of limitations. (See Doc. 492, attachment "A").
3. On July 19, 2004, the 11th Circuit decided United States v. Trainor, 2004 U.S. App. LEXIS 14859, 17 Fla. L. Weekly Fed. C 772 (July 19, 2004), a copy of which is attached hereto and made a part hereof. Trainor held, in pertinent part:

In sum, we agree with the District Court that the government, when seeking to toll a statute of limitations under § 3292, must provide something with evidentiary value – that is, testimony, documents, proffers and other submissions bearing some indicia of reliability – tending to prove it is reasonably likely that the evidence of the charged offenses is in a foreign country.

Trainor, 2004 U.S. App. LEXIS at 18.

4. The defense seeks discovery of the government's submission in regard to tolling to determine whether the submission satisfies the dictates of Trainor.
5. Obviously, if the government's submission fails to meet the Trainor standard, the defense will seek leave of court to dismiss the affected counts.

WHEREFORE, for the foregoing reasons and such others as may appear to the Court, the Accused requests that the motion be GRANTED.

Dated: 19 August 2004

Respectfully submitted,

/s/ _____
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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been served this 1~~8~~⁹th day of August, 2004 upon:

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